

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE: )  
 )  
 EASTERN LIVESTOCK CO., LLC, ) CASE NO. 10-93904-BHL-11  
 )  
 )  
 Debtor. )

**SUPPLEMENTAL OBJECTION TO TRUSTEE'S MOTION TO TRANSFER FUNDS  
AND NOTICE OF RELEASE OF PROCEEDS FROM ACCOUNT**

The First Bank and Trust Company (“First Bank”), by counsel, for its Supplemental Objection to Trustee’s Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds From Account (“Supplemental Objection”), respectfully submits this Supplemental Objection. This Supplemental Objection is filed in addition to the objection filed by First Bank on May 31, 2011 [Doc. No. 519], and First Bank further states as follows:

1. This Court extended the deadline by which First Bank may file its Purchase Money Claim in the Order of April 19, 2011 [Doc. No. 465]. Yet, James M. Knauer, chapter 11 Trustee in the above-captioned matter, has requested in the Motion that the Court disallow Purchase Money Claims as secured claims against Cattle Sales Proceeds and authorize the Trustee to transfer approximately \$7,000,000.00 in Cattle Sales Proceeds to the Trustee’s general operating account for use as cash collateral of Fifth Third Bank. The Trustee’s Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from Account (“Funds Transfer Motion”) [Doc. No. 501] should be denied.

2. First Bank has been diligently pursuing discovery in this proceeding, and the Gibson bankruptcy proceeding, to determine the nature and extent of its purchase money

collateral. After a contested hearing on April 15, 2011, this Court entered an order [Doc. No. 472] agreed to by the parties, authorizing First Bank to obtain discovery from three of the major feedlots with whom Eastern Livestock transacted significant business. This discovery, as well as other uncontested discovery from other major feedlots, is designed to assist First Bank in identifying its purchase money claims and is still ongoing.

3. On June 7, 2011, counsel for First Bank received a summary, prepared by Development Specialists, Inc., of the personal financial records of Thomas and Patsy Gibson for the year 2010. On June 15, 2011, counsel for First Bank, along with counsel for Gibson Trustee Kathryn Pry, met with Elizabeth Lynch and Development Specialists, Inc. to review records of the Gibsons still existing at the offices of Eastern Livestock and to obtain additional information regarding the Gibsons' personal financial records. This discovery, as well, is still in its infancy.

4. The Trustee's Funds Transfer Motion is premature, as it hastily seeks to transfer approximately \$7,000,000.00 to the Trustee's operating account, while relegating secured claimants to an unsecured status, without permitting adequate time for a complete determination of the rights and obligations of all creditors and interested parties in this matter.

5. Much of the facts in this proceeding remain undiscovered. At this stage, the only "fact" upon which the numerous parties can apparently agree is that Eastern Livestock and its insiders were engaged in a massive fraud and check kiting scheme that harmed hundreds of persons for millions of dollars. As other objections have noted, all of which are incorporated by reference, the role of the banks that honored this commercial paper – unlike First Bank<sup>1</sup> – over

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<sup>1</sup> There is no evidence to indicate the inflated activity flowed through First Bank as its lending was made on purchase money accounts, confirmed by live cattle assets, and remained at consistent levels while the activity in

months of inflated activity is still unknown. There is no factual justification, at this early stage, to reward priority status to Fifth Third Bank which is precisely what the Trustee has proposed to do without affording due process to the other creditors.

WHEREFORE, First Bank respectfully requests that the Court enter an Order denying the Trustee's Funds Transfer Motion, and for all other appropriate relief.

Respectfully submitted,

/s/ Daniel J. Donnellon

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Company

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other bank accounts skyrocketed into hundreds of millions of dollars.

**CERTIFICATE OF SERVICE**

I hereby certify that on June 17, 2011, a true and correct copy of the foregoing Supplemental Objection to Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds From Account was filed electronically. Notice of this filing will be sent to all parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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